UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

S & L VITAMINS, INC., Plaintiff, - vs. – AUSTRALIAN GOLD, INC., Defendant.	CIVIL ACTION NO. 05-CV-1217 (JS) (MLO) **PROPOSED ORDER**
AUSTRALIAN GOLD, INC., Third Party Plaintiff, - vs. – LARRY SAGARIN AND JOHN DOES 1-10, Third Party Defendants.	

BEFORE Seybert, J., U.S.D.J.:

THIS MATTER having been brought before the Court upon application of Coleman Law Firm, a Professional Corporation, attorneys for the plaintiff and third party defendant, and the Court having considered the Memorandum of Law submitted by the plantiff, the opposition submissions and the arguments of counsel, and for other good cause,

IT IS on this ______ day of ________, 2005:

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ORDERED that the Motion by defendants for dismissal of counts 1-10 of defendant's counterclaim and third party claim, pursuant to Federal Rule of Civil Procedure 12(b)(6) is hereby granted; and it is

FURTHER ORDERED AND DECLARED:

1. That plaintiff's use of the various trademarks and alleged trademarks associated with the Australian Gold Products is fair use and does not infringe any trademark or other right held by defendant;
2. That plaintiff's sale of the Australian Gold Products is not an actual or prospective tortuous interference with contract;
3. That defendant, its officers, directors, servants, employees, attorneys, agents, representatives, distributors, and all persons in active concert or participation with it, be and hereby are enjoined and restrained permanently from interfering with plaintiff's use of the various trademarks and alleged trademarks associated with the Australian Gold Products;
4. That an inquest be held before this Court on ________, 2005 to determine plaintiff's damages, including whether an award of punitive damages should be awarded; and it is

FURTHER ORDERED that a copy of this Order shall be served on all parties within seven (7) days of the above date.

It is on this __________ day of __________, 2005, **SO ORDERED**:

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Hon Joanna Seybert, U.S.D.J.